

RESOLUTION NO. 2011-181

A RESOLUTION OF THE LODI CITY COUNCIL
RATIFYING THE EMPLOYMENT AGREEMENT
BETWEEN THE CITY MANAGER AND FIRE CHIEF
LAWRENCE R. ROONEY

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby ratify the Employment Agreement entered into between the City Manager and Fire Chief Lawrence R. Rooney, as shown on Exhibit A attached.

Date: November 16, 2011

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I hereby certify that Resolution No. 2011-181 was passed and adopted by the Lodi City Council in a regular meeting held November 16, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Nakanishi, and
Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk

EMPLOYMENT AGREEMENT

**Executive Management
Exempt Service**

Fire Chief

THIS AGREEMENT entered into on _____, by and between the CITY OF LODI, a municipal corporation (hereinafter referred to as "City") and Lawrence R. Rooney, an individual (hereinafter referred to as "Employee").

WHEREAS, City desires to employ the services of Employee as Fire Chief; and

WHEREAS, Employee desires to serve as Fire Chief for the City beginning December _____, 2011; and

WHEREAS, City and Employee agree in writing to the terms and conditions of employment as Fire Chief; and

WHEREAS, Employee and City agree and acknowledge that Employee's employment as Fire Chief is his sole and exclusive employment with City, and that their employment relationship is governed solely and exclusively by this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

1. Employment: City agrees to employ Employee as Fire Chief, in accordance with the following provisions:

(a) Employee shall serve as Fire Chief, and shall be responsible for managing and directing the operations of the Fire Department.

(b) Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee shall comply fully with his reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC).

(d) Employee agrees to remain in the exclusive employ of the City during the term of this Agreement. Employee shall dedicate his full energies and qualifications to his employment as Fire Chief, and shall not engage in any other employment except as may be specifically approved in writing in advance by the City Manager.

2. Maintenance of Professional Expertise: To promote continued professional growth and benefit to the City, Employee shall, at City expense and consistent with budgetary constraints: maintain professional licenses and certifications, maintain membership in

professional organizations related to Fire administration and related professional disciplines; attend workshops, seminars and other similar activities designed to advance Employee's professional development; and, represent the City in professional associations and other organizations.

3 **or**

(a) Employee may resign at any time and agrees to give City at least 30 days advance written notice of the effective date of his resignation. In such event, Employee shall not be entitled to the severance pay referenced in Paragraph 4 herein.

(b) The parties recognize and affirm that Employee may be terminated by the City Manager with cause, which shall mean gross insubordination, incapacity, dereliction of duty, conviction of any felony or any crime involving acts of moral turpitude or involving personal gain to him, or material breach of this Agreement. In such event, Employee shall not be entitled to the severance pay referenced in Paragraph 4 herein.

(c) The parties recognize and affirm that Employee may be terminated by the City Manager without cause, In that event, and only in that event, Employee shall be entitled to severance pay as provided in Paragraph 4 herein.

(d) In the event of termination and in recognition of Employee's professional status and integrity, Employee and the City Manager shall prepare a joint public statement to be made by the City Manager. This employment relationship is based on the mutual respect between the parties and a desire to maintain the highest degree of professionalism. In communicating with third parties about the parties' employment relationship and the circumstances under which it may have been severed, the parties shall (a) protect and advance their mutual respect and professionalism, and (b) refrain from making statements that would negatively impact either party.

(e) Employee may choose to resign or retire his office instead of being terminated if agreed to by the City Manager. In such an event the public announcement, as provided for in Paragraph 3 (d) above, will note Employee has resigned or retired. The provisions of Paragraph 3 (d) shall remain applicable. In such event, Employee shall not be entitled to the severance pay referenced in Paragraph 4 herein.

4. Severance Pay: If Employee is terminated by the City Manager without cause while still willing and able to perform the duties of Fire Chief, City agrees to pay Employee a cash payment equal to six (6) months' aggregate salary and the City's cost of six (6) months' health insurance benefits only (no other benefits will be accrued or converted to a cash equivalent) subject to reduction as set forth in this Paragraph 4. The severance payment will be paid in installments coinciding with the City's regular paydays during the severance period and subject to customary withholdings. In the event Employee retains new employment during the six-month severance period, any remaining severance payment will be forfeited as of the date Employee begins his new employment. To be eligible for such severance pay, Employee shall fulfill all of his obligations under this Agreement, and shall sign an Acknowledgment and Release of Claims against the City in a form acceptable to the City Attorney. Payment under this Paragraph 4 will release City from any further obligations under this Agreement, or any other transaction between the parties.

5. **Employment as Department Head is Sole Employment with City:** Employee further represents and acknowledges that his employment as Fire Chief is his sole and exclusive employment with the City. Employee has no right to any other exempt position with the City or to any employment in the classified service.

6. **Salary:**

a. City agrees to pay Employee \$145,000.00 in salary per year for his services, payable in installments at the same time as other employees of the City are paid and subject to customary withholding. The City may reduce base salary compensation or other financial benefits of Employee as part of general salary reduction in pay among and common to all employees. In addition, Employee shall pay nine percent (employee's share) of his salary towards the California Public Employees Retirement system benefit. Currently, the City has instituted and Employee agrees to accept the following three reductions:

- i) Employee agrees to forego all deferred compensation matches he would otherwise be entitled to.
- ii) Employer will contribute the full cost (minus the Employee's Share) of the lowest cost **PERS** HMO Medical Plan available to employees (excluding Porac) toward Employee's selected PERS health care provider between the pay periods in which January 1, 2012 through June 30, 2012 fall. The lowest cost medical plan will be the lowest cost plan for San Joaquin County residents as of January 2012 for Employee's coverage category of: a) employee, b) employee plus one, or c) family. If Employee selects a higher cost plan, Employee will pay the difference (and the Employee's Share) as a payroll deduction. The Employee's Share shall be \$0.00 for the employee only coverage category, \$80.00 per month for employee plus one and \$104.00 per month for family.
- iii) Employee agrees to forego the ability to cash out 20 of the 40 hours of the Administrative Leave that would otherwise be cashable pursuant to Article IX of the Executive Management Statement of Benefits.

b. At any time, a minimum of a ten percent **(10%)** salary differential shall exist between the Fire Chief and the department's next highest paid executive or mid management position, including incentive pay. In addition, the City Manager will have discretion to grant up to an additional five percent in salary after six months of employment, and subject to a satisfactory performance evaluation.

7. **Benefits:** The City shall provide Employee the same benefits as provided to management employees in accordance with the terms of the Executive Management Statement of Benefits dated 1998 and as they may be amended, increased or decreased, except as modified herein. These are the sole and exclusive benefits to be provided to Employee. Any improvement or modification of such benefits may only be made by written instrument signed by the City Manager. Employee's vacation leave shall be calculated based upon fifteen years of service accumulated and as provided in the Executive Management Statement of Benefits (8.2). As used herein, benefits include, but are not limited to: vacation, sick leave, holidays, administrative leave, retirement, vision insurance, health insurance, dental insurance, long term

disability insurance and life insurance. Employee will also earn and accumulate sick leave at the rate of 12 days per year notwithstanding the 10 day provision in the Executive Management Statement of Benefits. Employee shall be granted an eighty (80) hour vacation/sick leave bank that can only be used during Employee's first 12 months of employment. This secondary bank shall expire upon Employee's first anniversary with the City.

8. **Performance Evaluation:** The City Manager shall review and evaluate the performance of Employee each year and set goals and objectives for the ensuing year. Such review and evaluation shall be in accordance with specific criteria developed in the performance plan in consultation with Employee and the City Manager.

9. **Assignment:** Employee shall not assign any of the duties and responsibilities, or obligations of this Agreement except with the express written consent of the City Manager.

10. **Authority to Work in the United States:** Employee represents, under penalty of perjury, that he is authorized to work in the United States. In accordance with §274A (8 USC 1324) of the Immigration Reform and Control Act of 1986 before this Agreement can become effective, Employee must provide documentary evidence to City consistent with the Act, that he is legally entitled to work in the United States, and must execute the verification required by that Act.

11. **Cell Phone/Vehicle/Uniform Allowance:** Employee will be provided with a Cell Phone for employment related use at the City's expense on terms consistent with other Executive Managers. Employee will also be provided with a vehicle for work related use. Employee will also be provided with a reimbursement for total cost of one complete Class A Fire Chief Uniform and four working uniforms that will not recur in any subsequent renewals of this contract.

12. **Moving and Relocation Expenses:** Employee will be reimbursed for any moving or relocation expenses related to accepting the fire chiefs position not to exceed \$5,000 total.

13. **Notice:** All notices required herein shall be sent first class mail to the parties as follows:

To **CITY:** Konradt Bartlam, City Manager
City of Lodi
P. O. Box 3006
Lodi, CA 95241-1910

To **EMPLOYEE:** Lawrence R. Rooney
8351 W. Maya Drive
Peoria, AZ 85383

Notice shall be deemed effectively served upon deposit in the United States mail.

14. **Entire Agreement:** This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by any party hereto. This Agreement may only be amended by written instrument signed by Employee and the City Manager and specifically approved by the City Council in open session.

15. Severability: If any provision of this Agreement is invalid or unenforceable, it shall be considered deleted herefrom and the remainder of this Agreement shall be unaffected and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written above.

CITY OF LODI, a municipal corporation

EMPLOYEE

Konradt Bartlam
City Manager

Lawrence R. Rooney

ATTEST:

By: _____
Randi Johl, J.D.
City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney